

Serial No.: 09/741,986

Attorney's Docket No.:10559/376001/P10182

REMARKS

Claims 1-28 are pending, with claims 1, 15, 18 and 24 being independent. Reconsideration and allowance of the above-referenced application are respectfully requested.

Claims 1-26 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Foster (US Patent 6,675,382) in view of Davis (US Patent 6,279,154). Claim 27 stands rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Foster in view of Davis, as applied to claim 1, and further in view of Forbes et al (US Patent 6,381,742). Claim 28 stands rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Foster in view of Davis, as applied to claim 2, and further in view of Hesse et al (US Patent 5,950,010). These contentions are respectfully traversed.

Independent claim 1 recites, in part, "a vendor package template that provides a script to install, upgrade, and remove at least one software package; a package importer to receive said at least one software package, where said package importer creates an X-package document based on said vendor package template in preparation for later software distribution and installation". (Emphasis added.) The Official Action mailed May 4, 2005, page 4, states that Foster does not disclose "a vendor package template that provides a script to install,

Serial No.: 09/741,986

Attorney's Docket No.: 10559/376001/P10162

upgrade and remove the package, and a package importer to create an X-package document based on the vendor package template in preparation for the distribution and installation of the software."

The Official Action relies on Davis for this claimed feature, stating, "Davis discloses a third-party component configuration file, i.e., a vendor package template (see, for example, column 3, lines 44-51), and the means to import the configuration file or template to create a corresponding list of installation tasks, i.e. a script, in preparation for later installation (see, for example, column 4, lines 1-9 and 20-24, and column 5, lines 28-32)." This statement misconstrues the claimed subject matter and fails to address each and every limitation of the claim. In particular, the claimed script is provided by the vendor package template, and is not created by the package importer, as asserted in the rejection. Moreover, the list of installation tasks described in Davis is not a script, but rather is input data for the task manager component. (See Davis at col. 5, lines 28-32.)

Furthermore, the Official Action has provided no evidence that Davis describes a package importer that creates an X-package document based on a vendor package template, or that Davis does so in preparation for later software distribution and installation. The cited portions of Davis describe an actual

Serial No.: 09/741,986

Attorney's Docket No.: 10559/376001/P10182

installation of a software package on a target computer, and not importation of a software package, such as importation into a distribution management server as in claim 15, that can occur before selection of any particular installation to a target computer. In the Response to Arguments section, the Official Action asserts that Davis' description of software installation, in connection with FIG. 3, as including opening of a configuration file at 71 and accessing installation components to generate a taskmanager's list of tasks at 75-85 constitutes importation of a software package as presently claimed. However, Davis explicitly states that the process shown in FIG. 3 is "the typical installation procedure 70 for the install system 50 referenced in FIG. 2." (See David at col. 3, lines 44-46.)

The purpose and operation of Davis is clearly articulated in the summary section: "In the preferred embodiment, the install system allows the user to choose whether or not an installation to be performed is a typical or custom installation. If a typical installation is selected, the install system first opens the configuration file of the third party application to be installed. Next, the install system creates a list of components to be installed and proceeds with the installation of the components on the component list. This provides a common interface for use for the installation of

Serial No.: 09/741,986

Attorney's Docket No.:10559/376001/P10182

third party software and would allow the users to customize their configuration of third party applications being installed." (See David at col. 2, lines 47-57.)

Thus, Davis is clearly describing software that runs on a target computer and manages the installation process on that target computer. This cannot be equated with "a package importer to receive said at least one software package, where said package importer creates an X-package document based on said vendor package template in preparation for later software distribution and installation", as claimed.

Moreover, independent claim 1 recites, "said package importer creates said X-package in a format that makes said X-package manageable in a software package management system independent of vendor-specific aspects of the at least one software package." The Official Action addresses this claimed feature by suggesting that the interface of an install system is somehow equivalent to the format of an X-package, citing to column 1, lines 43-57 and lines 22-34 of Davis. Reconsideration of this contention is respectfully requested. Davis states the following:

Typically, each third party software application has its own install system or process for installing the application software. [...] Heretofore, install systems have lacked the ability to allow user's to install all third party applications utilizing a

Serial No.: 09/741,986

Attorney's Docket No.:10559/376001/P10182

single install system. The single install system would provide a common interface for use for the installation of third party software and would allow the users to customize their configuration of third party applications being installed.

The present invention is generally directed to an apparatus and method for implementation of an install system that provides for typical and custom installation and configuration of third party applications.

In the preferred embodiment, the install system allows the user to choose whether or not an installation to be performed is a typical or custom installation. If a typical installation is selected, the install system first opens the configuration file of the third party application to be installed. Next, the install system creates a list of components to be installed and proceeds with the installation of the components on the component list. This provides a common interface for use for the installation of third party software and would allow the users to customize their configuration of third party applications being installed.

(See Davis at col. 1, lines 22-57; emphasis added.) Davis is clearly describing a software user interface that provides a common view of installation to a user at a target machine, so the user does not have to use different user interfaces provided by each third party software application's install system or process. Thus, Davis clearly fails to disclose the claimed

Serial No.: 09/741,986

Attorney's Docket No.:10559/376001/P10182

format of the X-package document created in preparation for later software distribution and installation.

Independent claims 15, 18 and 24 include limitations similar to those discussed above. Thus, the art of record fails to teach or suggest the claimed subject matter for the above reasons.

Dependent claims 2-14, 16-17, 19-23, and 25-28 are patentable based on the above arguments and based on the additional recitations they contain. For example, claims 2, 10 and 28 are patentable because Foster's description of including in a control file of a software package the name, address and other contact information for the person responsible for maintaining or creating the software package (i.e., the identity of the package creator) cannot be equated with an importing user, as claimed.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific issue or comment does not signify agreement with or concession of that issue or comment. Because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any

Serial No.: 09/741,986

Attorney's Docket No.: 10559/376001/P10182

claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

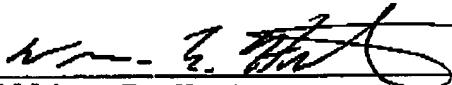
It is respectfully suggested for all of these reasons, that the current rejection is totally overcome; that none of the cited art teaches or suggests the features which are now claimed, and therefore that all of these claims should be in condition for allowance.

A formal notice of allowance is thus respectfully requested. Alternatively, a telephone interview with the Examiner and the Examiner's supervisor is respectfully requested to discuss the Davis reference and the independent claims.

No fees are believed to be due with this response. Please apply any necessary charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: August 4, 2005



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